

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

2014 MAY 22 A 9:58

Shaheen Cabbagestalk,

Plaintiff,

v.

Willie F. Smith, Head Administrator over
Food Services; Mr. Marlon Fedd, Lee CI
Food Services Head Food Supervisor; All
Kitchen Supervisors; and Warden Dennis
Bush,

Defendants.

No. 5:14-cv-268-RMG

ORDER

This matter is before the Court on Plaintiff's "objections and demand for hearing." (Dkt. No. 26). For the reasons set forth below, this motion is denied. Further, this action is dismissed without prejudice and without issuance and service of process.

Background

Plaintiff, a state prisoner, filed this action pro se and has moved the Court to proceed *in forma pauperis*. (Dkt. Nos. 1, 2). Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e) DSC, this case was assigned to a Magistrate Judge for all pretrial proceedings. Under established local procedure in this judicial district, the Magistrate Judge conducted a careful review of the Complaint pursuant to the provisions of 28 U.S.C. § 1915 and in light of the following precedents: *Neitzke v. Williams*, 490 U.S. 319 (1980); *Estelle v. Gamble*, 429 U.S. 97 (1976); *Haines v. Kerner*, 404 U.S. 519 (1972); and *Gordon v. Leeke*, 574 F.2d 1147 (4th Cir. 1978). The Magistrate Judge then issued an R&R recommending the Court dismiss this action pursuant to 28 U.S.C. § 1915(g) unless Plaintiff paid the Court's filing fee. (Dkt. No. 17). Plaintiff did not file objections. The Court then entered an order on May 2, 2014, adopting the

R&R. (Dkt. No. 23). Plaintiff then filed a response titled “objections and request for hearing.” (Dkt. No. 26).

Discussion

On May 2, 2014, the Court entered an order agreeing with the Magistrate Judge that Plaintiff’s Complaint failed to satisfy the “imminent danger” requirement of 28 U.S.C. § 1915(g) and that Plaintiff must pay the Court’s filing fee within fifteen days in order to proceed with this action. (Dkt. No. 23). Plaintiff did not pay the filing fee within this fifteen-day period. Rather, Plaintiff filed a response challenging the state court’s interpretation of certain statutes and requesting a hearing. (Dkt. No. 26). The Court finds these arguments provide no basis for amending its May 2, 2014 order.

Conclusion

For the reasons set forth above, the Court denies Plaintiff’s motion. (Dkt. No. 26). Because Plaintiff failed to pay the Court’s filing fee within the fifteen-day period following the Court’s May 2, 2014 order, (Dkt. No. 23), the Clerk is hereby instructed to dismiss this action without prejudice and without issuance and service of process.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

May 22, 2014
Charleston, South Carolina